

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.09.2016

Dated : 26.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.Nos.777 and 778 of 2016
and Crl.MP.Nos.5813 and 5814 of 2016

V.Azeez Basha .. Petitioner in both cases/
Accused

Vs.
R.Sreedharan ... Respondent in both cases/
Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 07.04.2016 passed by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore in CMP.Nos.1614 & 1615 of 2016 in CC.Nos.255 & 256 of 2007.

For Petitioner : Mr.P.Chandrasekar.

For Respondent : Mr.M.Devaraj.

COMMON ORDER

Both the Criminal Revisions are directed against the order passed by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore in CMP.Nos.1614 and 1615 of 2016 in CC.Nos.255 and 256 of 2007, dated 07.04.2016, dismissing the application filed by the petitioner under Section 45 of the Indian Evidence Act.

2.The learned counsel for the petitioner vehemently contended that the trial Court without application of mind dismissed the application filed by the petitioner, the lower Court has not appreciated the principles laid down by the Apex Court. The trial Court ought to have relied on the judgment of this Court to send the documents to the expert opinion under Section 45 of the Indian Evidence Act and under Section 243 Cr.PC and the learned counsel prays to allow the criminal revision and to set aside the order of the trial Court.

3.The learned counsel for the respondent mainly contended that the trial Court after considering the entire facts and circumstances of the case dismissed the application and there is no illegality or infirmity in the order of the trial Court and prays for dismissal of the revision petition.

4.Admittedly, the respondent/complainant preferred private complaint under Section 200 Cr.PC against the revision petitioner, the complaint was taken up on file as CC.No.255 of 2007 on the file of the Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore and the case was pending against the present revision petitioner. In the meanwhile, the petitioner preferred CMP.Nos.1614 and 1615 of 2016 to send the documents to obtain expert opinion to ascertain the age of the writings and the signatures in the cheque bearing No.185076 and 101395 dated 25.09.2007 and 01.10.2007 respectively.

5.On reading of the order passed by the trial Court, it is also admitted the execution of the cheque by the revision petitioner. The disputed cheques were presented for collection on 18.10.2007 and the same was returned on the same day with an endorsement "insufficient funds". The learned counsel for the respondent/complainant argued that as per Section 20 of the Negotiable Instruments Act, the holder of the cheque have authority to complete the blank in the instrument. The main case is at end of the trial, the recording of evidence is over and the accused has not get into the box to give his evidence. At this stage, the petitioner has filed this petition only to drag on the proceedings.

6.The learned counsel for the petitioner mainly contended that petitioner wanted to compare the handwritings and signature available in the cheque and age of the ink. The trial Court has rightly observed that there is no mechanism or valid method is available in India to find out the age of the Ink. The petitioner has not produced any documents along with the petition to compare with the signature found in the cheque, the failure to do so on the part of the petitioner/accused shows that the petition is filed at this stage only to drag on the proceedings.

7.The trial Court after considering the entire facts and circumstances and after analysing the materials available on record, correctly came to a conclusion and dismissed the claim of the petitioner. This Court finds no illegality or infirmity in the order passed by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore and the same does not warrant any interference by this Court.

8. In the result, both the criminal revisions are dismissed. Consequently, connected miscellaneous petitions are also closed. The trial Court is directed to dispose of the main case preferably within a period of four weeks from the date of receipt of copy of this Order.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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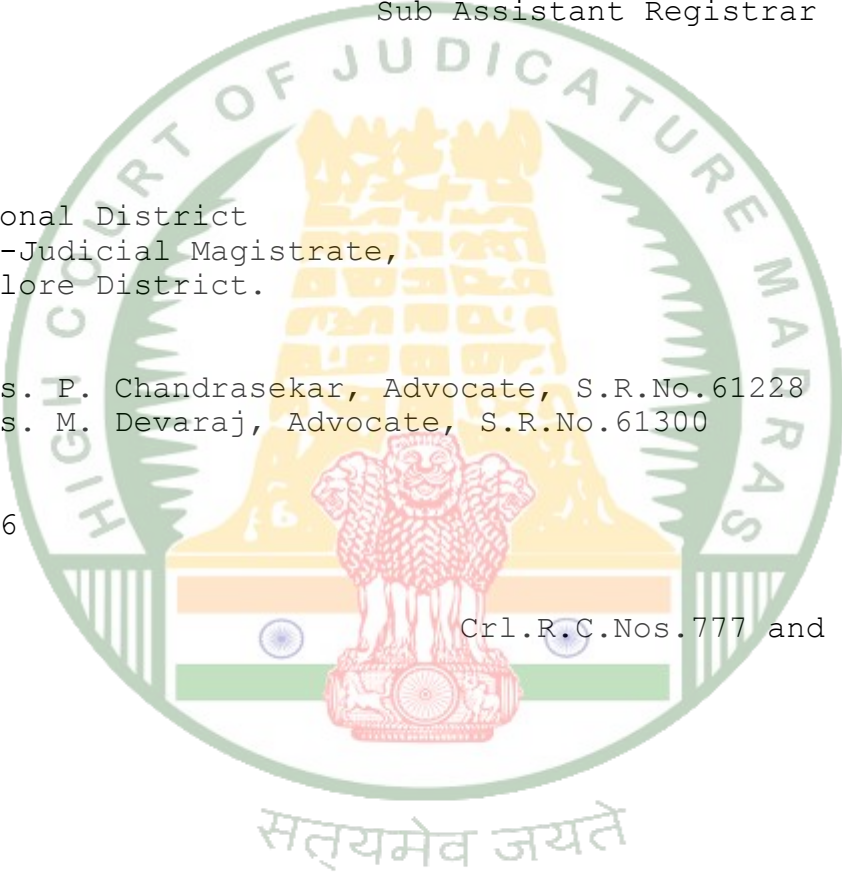
To

The Additional District
Munsif-cum-Judicial Magistrate,
Ambur, Vellore District.

+1cc to M/s. P. Chandrasekar, Advocate, S.R.No.61228
+1cc to M/s. M. Devaraj, Advocate, S.R.No.61300

NRI (CO)
Eu 21.12.16

Cr1.R.C.Nos.777 and 778 of 2016



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